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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/482,154	01/12/2000	Craig T. Hall	LEANP001	6622
22434	7590	04/23/2004	EXAMINER	
BEYER WEAVER & THOMAS LLP P.O. BOX 778 BERKELEY, CA 94704-0778			NGUYEN, NGA B	
			ART UNIT	PAPER NUMBER
			3628	

DATE MAILED: 04/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/482,154

Applicant(s)

HALL ET AL.

Examiner

Nga B. Nguyen

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MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22, 40-45 and 76-86 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22, 40-45 and 76-86 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 3, 2003 has been entered.
2. Claims 1-22, 40-45, and 76-86 are pending in this application.

Response to Amendment/Arguments

3. Applicant's arguments with respect to claims 1-22, 40-45, and 76-86 have been considered but are moot in view of new grounds of rejection.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-5, 40-43, and 45 are rejected under 35 U.S.C. 102(e) as being anticipated by Chou et al (hereinafter Chou), U.S. Patent No. 6,035,289.

Regarding to claim 1, Chou discloses in a system for matching

carrier capacities with shipper loads via a wide area network, a method for enabling a carrier to generate a bid for a shipper load (column 5, lines 38-44; a carrier generates an offer or bid for a shipper load. Note: Specification of the present invention page 4, lines 2-3, recites "carriers bid for loads tendered by shippers, shippers purchase the most attractive transportation service", that means, shippers tender or post the bid, carriers submit bid or offer; the same in Chou, shippers post the bid, carriers submit offer), comprising:

selecting a plurality of units of capacity (column 5, line 63-column 6, line 5; the carrier selects a plurality of units of capacity he wants to sell, e.g. a number of containers or truckloads); assigning a group identifier to the plurality of units of capacity (column 6, lines 1-5; the carrier specifies a transportation mode, e.g. air freight, rail, or a group identifier); and generating a bid for the shipper load using the group identifier (column 5, line 63-column 6, line 5; the carrier generates an offer included the transportation mode or group identifier) .

Regarding to claims 2, 3, Chou further discloses the units of capacity correspond to equipment identifiers defined by a carrier representative, the equipment identifiers correspond to at least one of trucking capacity, aircraft capacity, shipping capacity, and rail capacity (column 6, lines 1-5; the carrier also defines the transportation mode or equipment identifier, e.g. air freight, rail, for each of the carrier's offer for the units of capacity).

Regarding to claim 4, Chou further discloses generating a bid comprises generating a plurality of bid entries, each of the bid entries corresponding to one of the units of capacity (column 6, lines 35-43 and column 5, line 63-column 6, line 5; each carrier can place one or more offers, each offer includes the units of capacity).

Claim 5 is written in computer program that parallel the limitations found in

claim 1 above, therefore, is rejected by the same rationale.

Regarding to claim 40, Chou discloses in a system for matching carrier capacities with shipper loads via a wide area network, a method for presenting information regarding a bid entered against a particular shipper load, the bid corresponding to a particular carrier capacity, the method comprising: communicating a number of shipper loads against which the particular carrier capacity is currently bid (column 6, 35-40 and column 5, lines 63-67; a carrier communicates with the clearinghouse via web site, email, telephone to submit offers including a number of containers or truckloads).

Regarding to claims 41-43, Chou further discloses the units of capacity correspond to equipment identifiers defined by a carrier representative; the equipment identifiers correspond to at least one of trucking capacity, aircraft capacity, shipping capacity, and rail capacity; the particular unit of capacity comprises a group comprising a plurality of units of capacity ((column 6, lines 1-5).

Claim 45 is written in computer program that parallel the limitations found in claim 40 above, therefore, is rejected by the same rationale.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6-11 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chou et al (hereinafter Chou), U.S. Patent No. 6,035,289.

Regarding to claim 6, Chou discloses in a system for matching carrier capacities with shipper loads via a wide area network, a method for bidding on a plurality of shipper loads, comprising enabling a carrier to generate a plurality of bids corresponding to the plurality of shipper loads (column 5, line 63-column 6, line 5; a carrier generates an offer or bid for a shipper load). Chou does not directly teach each of the plurality of bids corresponding to a same unit of capacity. However, Chou does teach each of carries can play one or more offers (column 6, lines 35-40, and each of offers can have multiple alternative entries of transportation mode (column 6, lines 1-16), thus the same unit of capacity (containers or truckloads), different of transportation mode. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Chou's to allow a carrier generating a plurality of offers having different transportation modes for the same unit of capacity for the purpose of providing the choice of different transportation mode when generating an offer.

Regarding to claims 7, 8, Chou further discloses the units of capacity correspond to equipment identifiers defined by a carrier representative, the equipment identifiers correspond to at least one of trucking capacity, aircraft capacity, shipping capacity, and rail capacity (column 6, lines 1-5; the carrier also defines the transportation mode or equipment identifier, e.g. air freight, rail, for each of the carrier's offer for the units of capacity).

Regarding to claim 9, Chou does not disclose in response to acceptance by a shipper representative of one of the plurality of bids, making all others of the plurality of bids unavailable. However, it is well known in the art of auction process that making all others of the plurality of bids unavailable upon accepting one of the plurality of bids. For example, today there exist many different auction websites in the Internet (e.g. eBay,

yahoo, ubid, etc...), in the auction, the highest bid is accepted as a current highest bid and the item will be sold for the bidder who submitted the highest bid when the auction is closed, the others lower bids are marked as unsuccessful bids. Therefore, it would have been obvious to combine feature above with Chou's for the purpose of establishing competition among bidders.

Regarding to claim 10, Chou further discloses the same unit of capacity comprises a group comprising a plurality of units of capacity (column 5, lines 65-66; containers or truckloads).

Claim 11 is written in computer program that parallel the limitations found in claim 6 above, therefore, is rejected by the same rationale.

Regarding to claim 44, Chou does not teach the information includes a hyperlink, and a bid history related to the particular shipper load in response to selection of the hyperlink. However, Chou does teach the carrier communicate to submit offers to the clearinghouse via the clearinghouse's web site (see column 6, lines 35-43). Moreover, the user of hyperlink is well known in the art of accessing information via a web site over the Internet. Moreover, it is well know in the art of auction over the Internet that the user can select a particular product that contains the hyperlink which displays a product description and bid history related to the particular product (e.g. eBay, yahoo, ubid, etc...). Therefore, it would have been obvious to combine the feature above with Chou's for the purpose of providing bidding information to the bidding entities, e.g. a carrier, so they can easily to keep track of bidding information.

8. Claims 12-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over CAPS Logistics Inc. (CAPS Logistics), PR Newswire.

Regarding to claims 12, CAPS Logistics in a system for matching carrier capacities with shipper loads via a wide area network, a method for bidding on a

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plurality of shipper loads, comprising: generating a plurality of bids corresponding to the plurality of shipper loads, each of the plurality of bids corresponding to a same unit of capacity (page 1, lines 10-60). CAPS Logistics does not disclose where one of the plurality of bids is accepted, making all other of the plurality of bids unavailable.

However, it is well known in the art of auction process that making all others of the plurality of bids unavailable upon accepting one of the plurality of bids. For example, today there exist many different auction websites in the Internet (e.g. eBay, yahoo, ubid, etc...), in the auction, the highest bid is accepted as a current highest bid and the item will be sold for the bidder who submitted the highest bid when the auction is closed, the others lower bids are marked as unsuccessful bids. Therefore, it would have been obvious to combine feature above with Chou's for the purpose of establishing competition among bidders.

Regarding to claims 13, 14, CAPS Logistics further discloses the units of capacity correspond to equipment identifiers defined by a carrier representative, the equipment identifiers correspond to at least one of trucking capacity, aircraft capacity, shipping capacity, and rail capacity (page 1, lines 12-22).

Regarding to claim 15, CAPS Logistics the same unit of capacity comprises a group comprising a plurality of units of capacity (page 1, lines 59-60).

Claim 16 is written in computer program that parallel the limitations found in claim 12 above, therefore, is rejected by the same rationale.

Regarding to claims 17, 21, CAPS Logistics in a system for matching carrier capacities with shipper loads via a wide area network, a method for generating a bid for a shipper load, comprising: generating the bid and the additional bids for the shipper load (page 1, claims 35-60). CAPS Logistics does not discloses designating a currently unavailable unit of capacity, the bid and the additional bids being identified as a future

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bid; and when the currently unavailable unit of capacity becomes available, updating the bid to a current bid. However, it is well known in the art of auction to submit a future bid on an unavailable product, and the future bid will become the current bid when the product is available. Therefore, it would have been obvious to combine the feature above with CAPS Logistics's for the purpose of allowing the carrier submit future bids on unavailable unit of capacity.

Claims 18-20 contain similar limitations found in claims 13-15 discussed above, therefore, are rejected by the same rationale.

Claim 22 is written in computer program that parallel the limitations found in claim 17 above, therefore, is rejected by the same rationale.

9. Claims 76-86 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huberman, U.S. Patent No. 5,826,244.

Regarding to claim 76, Huberman discloses in a system for matching supplier bids with customer requests via a wide area network, a method for responding to bids for a document service corresponding to a customer, comprising:

posting the document service on the system, the document service having an automatic acceptance price associated therewith specified by a customer representative, the automatic acceptance price being a monetary value at and below which automatic acceptance is authorized (column 10, lines 5-22; posting a job request for a document service having a reservation price specified by a customer process 210 which is the customer representative);

receiving a bid for the document service specifying a bid price (column 10, lines 62-column 11, line 15; receiving a bid for the document service specifying a bid price);

the bid price is less than or equal to the automatic acceptance price,

automatically accepting the bid on behalf of the customer (column 11, lines 25-40; the bid price is less than or equal to the reservation price, broker process 230 automatically accepts the bid on behalf of the customer).

Huberman discloses an auction related to the document service between a customer and a supplier, instead of an auction related the transportation service between a shipper and a carrier. However, in Huberman's document service, customer is a buyer who purchases the service, supplier is the seller who sells the service, supplier bids on the document service tendered by the customer. Equivalent to the transportation service in the present invention, shipper is a buyer who purchases the service, carrier is a seller who sells the service, carrier bids on the shipper loads tendered by shipper. Thus, customer, supplier, document service are equivalent to shipper, carrier, shipper load. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Huberman's method to replace document service auction by transportation service auction, the method would be performed the same regardless of any type of products or services in the auction.

Regarding to claim 77, Huberman discloses wherein posting the document service comprises making the document service available to a subset of a plurality of system users as determined from information specified by the customer representative (column 10, lines 23-35).

Regarding to claims 78, 79, Huberman discloses notifying the customer representative regarding acceptance of the bid, wherein notifying the customer representative comprises at least one of transmitting an e-mail to the customer representative, transmitting a pager signal to the customer representative, and transmitting a message to be displayed using a system interface to the customer

representative (column 12, lines 44-52; broker process 230 notifies customer process 210 regarding acceptance of the bid; wherein notifying the customer process by transmitting a message to be displayed using a user interface to the customer process).

Regarding to claim 80, Huberman wherein the document service also has an automatic notify price being a monetary value at and below which automatic notification of the customer representative is authorized, the method further comprising automatically notifying the customer representative regarding the bid where the bid price is less than or equal to the automatic notify price (column 11, line 50-column 12, line 9, broker process submits several of the lowest bids to the customer process).

Claim 81 is written in computer program that parallel the limitations found in claim 76 above, therefore, is rejected by the same rationale.

Claims 82-86 contains similar limitations found in claims 76-81 above, therefore, are rejected by the same rationale.

Conclusion

10. Claims **1-22, 40-45, and 76-86** are rejected.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Nga B. Nguyen, whose telephone number is (703) 306-2901. The examiner can normally be reached on Monday-Thursday from 8:30 AM-6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Souh, can be reached on (703) 308-0505.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.

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12. Any response to this action should be mail to:

Commissioner of Patents and Trademarks
c/o Technology Center 3600
Washington, D.C. 20231

or faxed to:

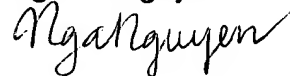
(703) 872-9326, (for formal communications intended for entry)

or:

(703) 308-3961 (for informal or draft communications, please
label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park 5, 2451 Crystal
Drive, Arlington, VA, Seventh Floor (Receptionist).

Nga B. Nguyen



January 8, 2004